

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

SUPERVISOR HANDBOOK

**THIS IS SUGGESTED GUIDANCE FOR ADDRESSING AND IMPLEMENTING
DISCIPLINE AND OTHER CORRECTIVE MEASURES IN RESPONSE TO
EMPLOYEE MISCONDUCT, LESS THAN SATISFACTORY WORK
PERFORMANCE, AND/OR LESS THAN SATISFACTORY ATTENDANCE**

2001

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PURPOSE

The purpose of this handbook is to assist supervisors in dealing with day-to-day employee relations issues. This handbook is the supervisor's supplement to the Corrective Action and Disciplinary Guidelines.

The material in this handbook is not all inclusive. Reference to policies, procedures, work rules, Civil Service Rules, and labor contracts is also necessary.

Supervisor/subordinate relationships are intended to be positive. This requires that Supervisors deal with employees fairly and in a consistent manner. Some issues/problems may best be approached by simply talking to the employee that is doing something they should not be doing (or alternatively, failing to do something they should be). Other issues may best responded to by more formally bringing it to the employee's attention through one or more counselings. Misconduct issues often dictate that discipline is necessary. When circumstances warrant, the approach to discipline normally is to be corrective in nature. A penalty typically must be within the range as described in the Corrective Action and Disciplinary Guide.

Good attendance is an integral part of being a good employee and is necessary to ensure job duties, tasks, and assignments are timely completed. There is no right to use accrued annual leave credits without prior approval except if the annual leave is being substituted due to the lack of sick leave accruals. The use of sick leave accruals is only allowed for an employee or his/her immediate family for appropriate/verifiable health related reasons or funeral attendance.

It should be noted that some appointing authorities have various procedures, policies, or practices that are unique due to organizational structure or legal requirements. Supervisors are to consult their Personnel Officer before issuing a counseling, reprimand, service rating, suspension, or dismissing an employee. A supervisor cannot dismiss an employee without such consultation.

The first portion of this handbook consists of two parts. The first part is designed to provide more specific guidance and is numbered consecutively to match up with the work rules contained in the Corrective Action and Disciplinary Guideline document. The second part, beginning on page 11, provides general guidance about employee misconduct, disciplinary conferences, investigatory suspensions, employee right to be represented, and forms to use for written (formal) counseling, written reprimands, etc.

The succeeding portion of this handbook contains guidance on substandard or less-than-satisfactory work performance, probationary employees, unauthorized lost time, poor attendance, and (where applicable) recipient rights/Mental Health Code violations.

1. POSSESSION, PROCURING, CONSUMPTION, OR SELLING OF ALCOHOL ON STATE PROPERTY, OR PROPERTY USED OR LEASED BY THE STATE, INCLUDING VEHICLES, OR A POSITIVE ALCOHOL TEST RESULT

The possession of, procuring, consumption, or selling of alcohol is strictly prohibited. If there is reasonable cause to suspect that an employee is in possession of alcohol, the following steps should be immediately taken:

- A. Contact your Personnel Officer immediately.
- B. The Personnel Officer will secure assistance from a police agency. Consult local or State police, to determine the appropriateness of searching the employee's work area, the employee's locker, or the employee's vehicle. If a search is appropriate, conduct the search with another management witness. Only the police can search an employee's personal vehicle or actually search an employee. When searching an employee locker the employee is requested to be present and is entitled to have a representative present.
- C. If possible, keep the person within your sight or within the sight of another supervisor, if the questioned event just occurred. We cannot conduct a physical search of the employee.
- D. If alcohol is discovered, it should be confiscated and secured pending investigation by local or State Police. Until the substance is provided to the police it should only be in possession of one management official to ensure the integrity of what is commonly known as 'chain-of-custody.'

If an employee appears to be under the influence of alcohol, contact the Drug and Alcohol Testing Coordinator immediately. (See pager number below)

2. POSSESSION, PROCURING, CONSUMPTION, OR SELLING OF DRUGS ON STATE PROPERTY OR PROPERTY USED BY THE STATE, INCLUDING VEHICLES, OR A POSITIVE DRUG TEST RESULT

A supervisor may be confronted with an employee who appears to be under the influence of a drug. The supervisor has a responsibility to determine if an employee is impaired. Supervisor guidance:

- A. After consultation with the 'Drug & Alcohol Testing Coordinator' (pager number 517-341-0646), the employee may be subjected to drug or alcohol testing in accordance with training provided to supervisors. This means the employee may be in violation of Civil Service Rules or applicable labor contract provisions.
- B. *Important:* If an employee appears impaired try not to let the individual operate or otherwise drive a motorized vehicle. If employee persists, the police may need to be contacted.

3. CONVICTION BY A COURT THAT MAY (OR MAY NOT) IMPACT DIRECTLY ON EMPLOYMENT SITUATION OR FAILURE TO REPORT A CONVICTION OR FAILURE TO REPORT A FORMAL CHARGE TO ONE'S SUPERVISOR AND/OR PERSONNEL OFFICER

It is the employee's responsibility to report to their supervisor and/or their personnel officer any charge or conviction of a felony or misdemeanor. This must be promptly investigated to determine the effect of the employee's involvement on recipients' well-being, relationship with fellow employees, the employee's ability to continue to perform work duties, the mission of the agency, and the public image.

A supervisor who becomes aware that an employee has been arrested by a police agency, with guidance/involvement of your personnel officer, should attempt to obtain the following information:

- A. the police agency involved
- B. the charge(s) against the employee
- C. the pending disposition

The supervisor should report all available information to their personnel officer immediately. In determining whether a conviction impacts the employment situation, the following questions should be considered:

- A. Is there a reasonable connection between the offense and the duties of the employee?
- B. What is the employee's work record like otherwise?
- C. Is the offense of a nature that an ordinary citizen would object to the offending employee continuing to be a State employee?
- D. Are co-workers indicating they are not willing to work with the convicted employee?
- E. Does the conviction have an effect on a recipient's well-being?

4. FAILURE TO CARRY OUT INSTRUCTIONS, WORK ASSIGNMENTS OR OTHERWISE DERELICT IN THE PERFORMANCE OF ONE'S DUTIES

Dereliction of duty involves ignoring or not attending to one's duties or being inattentive to the requirements of one's job. Supervisor guidance:

- A. Examples of documents which might be used to establish that the employee has been made aware of his/her duties:
 - 1. service rating factors; position description
 - 2. prior counseling (verbal or written); prior related memos
 - 3. training records
- B. Intent is not a key component in the determination of this misconduct violation. The employee must simply fail to carry out instructions or work assignments of which he/she is aware. The severity of discipline depends on the severity/consequence of the violation and the employee's past work history.

5. INSUBORDINATION

When an employee refuses to comply with a direct order, such as refusal to accept a job assignment, job duty or task, or to refrain from certain conduct or behavior, this is insubordination. The direct order is given by someone who has organizational authority to issue orders, such as the immediate supervisor. The direct order:

- A. Must be reasonable and consistent with the employee's position and responsibilities.
- B. Must be clear and concise; it cannot be vague, ambiguous or confusing.
- C. It cannot be unsafe, illegal, or immoral.

When issuing a direct order you should say:

"I am giving you a direct order, you are to _____. Do you understand? If you fail to perform _____immediately, you will be considered to be insubordinate. Discipline for insubordination is discipline, up to and including discharge."

It is important to demonstrate that someone else was subsequently assigned to perform the task in dispute when the first employee refused. Having someone else complete the assignment confirms the importance of the task. This should occur except in those situations where the insubordinate employee's skill is truly unique.

6. REFUSAL TO WORK MANDATORY OVERTIME

If it becomes necessary to mandate/force employees to work overtime, the supervisory guidance is:

- A. The employee must be given a timely verbal directive that he/she is expected to work overtime.
- B. If the employee refuses to perform the overtime, the employee must be told that he/she is being mandated to work overtime and that failure to work overtime will result in disciplinary action.

Note: The assignment of overtime must be consistent with union contract provisions. For example, the current AFSCME contract allows employees the right to refuse one mandatory overtime assignment every three (3) months.

7. LEAVING WORK ASSIGNMENT WITHOUT PERMISSION

Supervisor guidance:

- A. It should be verified that no supervisor gave authorization (or implied authorization) to the employee that he/she could leave the work assignment during the time in question, and that no informal practice exists allowing employees to leave without prior authorization.

8. FAILURE TO OBSERVE RULES/POLICIES/REGULATIONS

Supervisor guidance:

- A. Establish the availability of the employee regarding time, date, and place of the violation of rule or policy.
- B. Confirmation that similar conduct is not knowingly tolerated in regard to other subordinates.

9. FALSIFICATION OF WORK-RELATED RECORDS INCLUDING BUT NOT LIMITED TO MEDICAL DOCUMENTATION OR EMPLOYMENT APPLICATION

Falsification of a document involves an act intended to deceive the person reading that document.

Supervisor guidance:

- A. There must exist a signed copy of the work-related record in question.
- B. Evidence must exist that the employee falsified work-related records that:
 - 1. document work not done
 - 2. cover up actions which violated policies or procedures
 - 3. protect other employees or other reasons which are not consistent with the employee's duties or responsibilities
- C. Management's knowledge, usually supported by other documents, that something that normally would exclude an applicant from being hired has been falsified on an employment application.
- D. Confirmation that management had been unaware of the falsification until investigative action was initiated.

10. GAMBLING

All gambling is prohibited and may be illegal. Gambling can involve betting money or something of value on the outcome of a game, contest, or event. This is actual gambling for tangible gain.

Supervisor guidance:

- A. Verification that gambling is not condoned (either implicitly or explicitly) via similar forms of gambling under other circumstances, e.g. sports 'pools'.

11. MISAPPROPRIATION/UNAUTHORIZED CONSUMPTION OR POSSESSION OF STATE PROPERTY AND/OR PROPERTY OF OTHERS AND/OR RESOURCES RELATED TO THE WORKPLACE

When there is apparent misappropriation (for example, theft), the supervisor should:

- A. Immediately contact another management official and/or the police as appropriate.
- B. Any physical evidence should be confiscated and secured pending an investigation. If possible, try to ensure that only one person is responsible for controlling the physical evidence and try to prevent others from handling or placing fingerprints on the physical evidence.
- C. Actual evidence should exist that the accused employee was in possession of such property or resource or that the employee caused such unauthorized possession to occur.

12. PROHIBITED DISCRIMINATION

Discrimination:

Illegal treatment of a person or group (either intentional or unintentional) based solely on race, color, religion, national origin, sex, age, height, weight, marital status, partisan considerations, disability, or arrest record.

Allegations of prohibited discrimination are investigated with the guidance and assistance of the Department of Community Health, Office of Human Resources Director/designee.

Civil Rights complaints shall be forwarded to the departmental Labor Relations Manager of the Department of Community Health for investigation and processing. Complaints involving disability or reasonable accommodation issues are to be forwarded to the Director of the Office of Human Resources.

No determination should be independently made by supervisors about whether or not discrimination has occurred.

13. SEXUAL HARASSMENT

Sexual harassment:

- A. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment. There are two types of sexual harassment:
 - 1. Quid Pro Quo
 - a. when submission to such conduct is made either explicitly or implicitly a term or condition of an individuals' employment
 - b. when submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting an individual
 - 2. Hostile work environment

when conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

A supervisor who tolerates sexually offensive conduct or comments in the workplace, even in the absence of the employee who would be offended by the conduct, may be guilty of fostering a hostile or offensive work environment. A supervisor cannot allow, nor tolerate, offensive conduct or comments in the workplace; the tolerance may serve to further encourage subordinates to engage in more of the same, and possibly worse, conduct.

Subordinates must know that a supervisor will not tolerate sexually offensive conduct or comments in the workplace. The easiest way to do this is to set a good example. If there is a question regarding the appropriateness of the comment or conduct, it should not be tolerated.

Regardless of whether or not the conduct is intended, or unintended, the conduct becomes sexual harassment if it is unwanted, offensive, hostile or creates an offensive and disruptive work environment.

It can only be determined as to whether or not an environment is "hostile" or "abusive" by considering all of the circumstances. This may include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or an offensive utterance; and whether it interferes with another's ability to work.

14. RETALIATION AGAINST OR COERCION OF EMPLOYEES OR OTHERS FOR COOPERATING IN INVESTIGATIONS

It is important that investigations be conducted in an atmosphere in which employees can provide relevant information without fear of retaliation.

Coercion: To imply or use threat, harm, loss, or cost to a person in an attempt to cause that person to not cooperate fully in an investigation.

Retaliation: To harm or cause negative consequences to a person who has cooperated in an investigation.

15. SLEEPING ON DUTY OR OTHERWISE NOT ALERT TO ONE'S DUTIES AND RESPONSIBILITIES

Supervisor guidance:

- A. Try to establish what witnesses actually observed
 1. how long they made the observation; distance from the individual

2. physical conditions at the location where observations were made (hot, cold, light, dark, noisy, quiet, how was the furniture arranged?)
 3. time lapse between observation and positive (alert) response from the employee being observed.
 4. what response did the employee give when first approached?
 5. what did the employee say?
 6. how did the witness attempt to get the employee to respond?
- B. Circumstances under which the observation is made (including the person's assigned responsibilities.). Is their work neglected or not completed?

16. SMOKING IN AN UNAUTHORIZED AREA

Smoking is prohibited in all department operated buildings including leased space and state owned or leased vehicles. In addition, smoking is further prohibited within 100 feet of any entrance to any such building or within 100 feet of any place that would allow smoke to enter a department operation. (It is noted that some buildings are under the control of the Department of Management Budget that only prohibits smoking within 25 feet.)

17. SUPPLEMENTAL EMPLOYMENT BEYOND THE SCOPE OF DEPARTMENTAL AUTHORIZATION

- A. All employees must have written authorization to engage in supplemental employment. Employees must seek renewal of their written approval by no later than the end of each fiscal year.
- B. Authorization includes ensuring the outside employment does not conflict in terms of hours of State employment and is not a conflict of interest, including inappropriate financial gain, based on the fact that the person is a State employee.

18. THREATS/VERBAL ABUSE TO/ABOUT OTHERS

Threat: Verbal or physical implication that one intends to cause harm to another.

Verbal abuse: Any use of language by which another is belittled, scorned, cursed, or defamed.

Threats of /or actual workplace violence is prohibited. This includes, but is not limited to, any of the following conduct in or around the work environment:

- A. Threatening or actual injury, abuse, or damage against a person or property.
- B. Fighting or threatening to fight with another person
- C. Possession of a firearm or any other weapon in the work environment
- D. Using profanity, jokes, using obscene or abusive language, or gestures in a threatening manner
- E. Raising ones' voice (yelling, shouting) in a threatening manner
- F. Harassing or intimidating behavior
- G. Stalking

19. MAJOR PHYSICAL ALTERCATIONS

A “major” physical altercation involves an act by one individual that could have or did cause physical injury or damage to another. It does involve actual physical contact that a reasonable person would characterize as a fight or an assault.

- A. Photograph of injury and statement(s) from qualified medical personnel relative to the nature and seriousness of the injury, if any.
- B. Identification of the individual who allegedly instigated the altercation.
- C. Identification of the individual (if any) who apparently retaliated in response to provocation or in self-defense.
- D. Identify witnesses and obtain witness statements

20. MINOR PHYSICAL ALTERCATIONS

Occasionally employees become involved in situations that escalate to the point of physical contact but would not be characterized as a fight.

Minor physical altercations are closely related to major physical altercations. A “minor” physical altercation involves an act in which one person touches another in an aggressive manner yet does not inflict injury or physical damage.

The following should typically be obtained:

- A. Identification of the individual who allegedly instigated the altercation.
- B. Identification of the individual (if any) who apparently retaliated in response to provocation or in self-defense.

21. TRANSPORTING A WEAPON ONTO STATE PROPERTY OR ONTO PROPERTY USED OR LEASED BY THE STATE AND/OR POSSESSION OF A WEAPON ON STATE PROPERTY OR ON PROPERTY USED OR LEASED BY THE STATE INCLUDING VEHICLES

Under no circumstance should a weapon be in or near the workplace. The possession of weapons on State owned/leased property or State owned/leased vehicles is prohibited.

Weapon: pistols, rifle, shotguns, knives, bow and arrow, gas-ejecting devices, clubs, BB guns, electrical devices that emit current, impulse, wave, or beam or any other object that could be used as lethal weapons or any weapon as defined in the Penal Code of Michigan.

If there is reasonable cause to suspect that an employee is in possession of a weapon, the following steps should be taken:

- A. It is imperative that such matters be handled by appropriate law enforcement officials. Please contact your personnel officer for further direction on such matters. You should not investigate such matters on your own. If evidence is provided in the form of witness statements or if the weapon itself is provided, these should be securely maintained and given to law enforcement personnel.
- B. Possession means it should be established that the employee in question had physical control of the weapon.

22. UNAUTHORIZED ACCEPTANCE OF MONEY OR GIFTS

Normally employees are prohibited from accepting money or gifts which are related to the performance of their duties or the work place. On occasion, employees are recognized for excellent service and receive a certificate or similar award. This work rule does not prohibit such recognition. In any circumstance where there may be a question regarding the appropriateness of something received, please discuss the matter with your personnel officer.

23. UNSAFE OPERATION OF STATE OWNED/LEASED VEHICLES INCLUDING NON-USE OF SEAT BELTS

Employees must at all times be in compliance with the law in regard to the operation of State vehicles. Care must be used when operating State vehicles when pedestrians are or may be present.

24. CONFLICT OF INTEREST

Employees are to ensure that they and members of their family are not engaging in activities that are in conflict of interest with the employee's position with the State of Michigan. For example, if an employee's position has as a duty the licensing of a certain business, it would be a conflict of interest for the employee to license this type of business if it were owned by a family member.

25. MISUSE OF ELECTRONIC EQUIPMENT AND RELATED SYSTEMS INCLUDING BUT NOT LIMITED TO: BEEPERS, INTERNET, E-MAIL, TELEPHONE, PRINTERS, COPIERS, FACSIMILE MACHINES

Misuse could be a variety of activities including receiving, transmitting, and/or copying pornographic or other inappropriate materials, chain e-mails, or malicious statements, etc. A supervisor should immediately contact their personnel officer for guidance.

26. CONDUCT UNBECOMING A STATE EMPLOYEE

This is a broad and general charge. The determination as to whether this charge is to be used is generally made by the personnel officer in consultation with various managers.

27. UNAUTHORIZED USE, RELEASE, COPYING, OR OTHERWISE DIVULGING OF WORK RELATED CONFIDENTIAL INFORMATION, REPORTS, RECORDS, CHARTS, OR DATA IS STRICTLY PROHIBITED. CONFIDENTIAL INFORMATION INCLUDES, BUT IS NOT LIMITED TO, PATIENT/RECIPIENT NAMES, IDENTIFICATION NUMBERS, MEDICAL INFORMATION, OR TEST RESULTS.

It is critical to ascertain that an actual document exists (it might be electronic) that has been disclosed.

It is essential to demonstrate that the accused employee disclosed the document.

28. DISCRIMINATORY HARASSMENT OF CO-WORKERS OR OTHERS RELATED TO STATE EMPLOYMENT

This coincides with the relevant Civil Service rule. Discriminatory harassment means unwelcome advances, requests for favors, and other verbal or physical conduct or communication based on religion, race, color, national origin, age, sex, height, weight, marital status, partisan considerations, or disability under any of the following conditions:

- A. Submission to the conduct or communication is made a term or condition, either explicitly or implicitly, to obtain employment.
- B. Submission to or rejection of the conduct or communication by a person is used as a factor in decisions affecting the person's employment.
- C. The conduct or communication has the purpose or effect of substantially interfering with a person's employment or creating an intimidating, hostile, or offensive employment environment.

MISCONDUCT

Suggested **Steps in the Investigative Process**

- A. It is important to gather as much factual information as possible regarding the event being investigated.
 - 1. What is the date and time of the event?
 - 2. What other employee(s) were present?
 - 3. What can be used to establish the availability of the employee to the incident in question?
 - 4. Who are other potential witnesses?
 - 5. Obtain, identify, and ensure the security of any relevant existing work records, medical records, written witness statements, and/or any physical evidence.
 - 6. Generally, you need to ask who, what, when, and where.
- B. Determine what policy, rule, regulation, or procedure may have been violated.
- C. Determine how it can be demonstrated that the accused employee is aware of what is at issue, e.g. signed policy receipts.
- D. When a written investigatory questionnaire is distributed, a statement should be included that the employee is required to give accurate answers to any and all questions related to the issue under investigation. The employee must be allowed a reasonable time period to respond to the questionnaire.

NOTE: AFSCME and MCO represented employees are also entitled to receive a copy of their written responses, and the employee may review, amend, change or correct their initial written responses by no later than the end of the employee's next regularly scheduled work shift. When an MCO represented employee is the direct subject of the investigation, the employee has the right to request and meet with a union representative before providing the written responses.
- E. In an investigatory interview, only employees who are the subject of an investigation have a right to a representative upon their request. Employees **DO NOT HAVE THE RIGHT to TAPE RECORD** an investigatory or a disciplinary conference. The representative cannot answer questions directly for the employee, but may talk with the employee before the employee responds to questions. The representative may also ask questions and/or bring other relevant information to your attention.
- F. UAW represented employees must be given written notice of their right to a UAW representative preceding an investigatory interview.

Considerations in determining the penalty to give to the employee for a violation(s)

- A. Arbitrators and administrative hearing officers often consider the following:
 - 1. How long has the individual been an employee?
 - 2. Are there any mitigating circumstances?
 - 3. What were the consequences of the action/inaction of the employee?
 - 4. Is there an acceptable alternative to level of discipline: For example, could a disciplinary demotion and reassignment be implemented in lieu of dismissal?
 - 5. If an employee has committed multiple offenses or has received prior discipline, the penalty determination is made on a case-by-case basis and may be the maximum penalty allowable.
 - 6. Is the proposed discipline being meted out timely in relation to the occurrence of the violation?
 - 7. Determine the degree of the employee's culpability. Was the employee's action partially justified or totally unjustified?
- B. In order for disciplinary action to be sustained, the following "Seven Tests of Just Cause" must normally be met.
 - 1. Did management give the employee forewarning or foreknowledge of the possible or probable disciplinary consequences of the employee's conduct?
 - 2. Was the rule or managerial order reasonable related to the orderly, efficient, and safe operation of the business?
 - 3. Did management make an effort to discover whether the employee did in fact violate or disobey a rule or order of management before administering discipline?
 - 4. Was the investigation conducted fairly and objectively?
 - 5. At the investigation, did the "judge" obtain substantial evidence or proof that the employee was guilty as charged?
 - 6. Have the rules, orders, and penalties been applied in an even-handed manner and without discrimination to all employees?
 - 7. Was the degree of discipline administered reasonably related to the (a) seriousness of the employee's proven offense and (b) the record of the employee in his or her service with the agency?
- C. Whenever an investigation does not result in a corrective action or a disciplinary action, please consult with your personnel officer. In some circumstances this result should be communicated in writing to the employee that was investigated.

Conducting a Disciplinary Conference

- A. The disciplinary conference must be conducted after the investigation is completed, and prior to the issuance of any disciplinary action. A disciplinary conference is held prior to the issuance of:
1. written reprimands
 2. disciplinary suspensions
 3. less than satisfactory service ratings
 4. involuntary demotions
 5. involuntary reassignment/transfer (for disciplinary reasons)
 6. dismissal/separation
 7. *some unauthorized absence separations (vacating position)
 8. *some denials of an extension of a leave of absence
(*these are called separation conferences)
- B. It is important to remember that the purpose of the disciplinary conference is to provide due process by giving the employee who is accused of unacceptable conduct and/or performance and his/her representative an opportunity to:
1. review the charges and evidence
 2. ask questions of those conducting the disciplinary conference regarding the charges, the evidence, and the contemplated discipline
 3. offer any information that he/she believes refutes the charges, the evidence, and/or the contemplated discipline
- C. Disciplinary conferences are not held for counseling. Further, employees do not have the right to representation for counseling. An employee has the right to request and arrange for representation for a disciplinary conference. If a union representative wants to be present despite the employee's wish to the contrary, discuss this with your personnel officer; some labor contracts allow the union representative to be present.
NOTE: Upon written request of a MCO union representative, we are required to inform the union of the result of the disciplinary conference.
- D. A notice of disciplinary conference should normally be personally given to the employee by his/her immediate supervisor, with personnel officer assistance, at least 24 hours (only less time under extraordinary circumstances) prior to the disciplinary conference. If the immediate supervisor is not available, the notice can be given by another manager.
- E. At the disciplinary conference the supervisor should:
1. review the charges(s) and the evidence
 2. listen to the employee and their representative's presentation
 3. respond to questions to the best of your ability
 4. at the end of the conference, take time away from the conference to consider what was said and any new information received and what effect it might have on the proposed disciplinary penalty

- G. If it is contemplated that an Employee Departure Report (used for disciplinary suspension and separation), service rating, or written reprimand is to be given, the forms should not be signed by management until the conference concludes. Further, the issuance of the discipline through the Employee Departure Report need not be immediately signed at the end of the disciplinary conference, but can be done later if more time is needed to consider (or investigate) new information provided at the disciplinary conference. The employee is entitled to a representative when being issued discipline. Supervisor guidance:
1. The employee is to be requested to sign the discipline form.
 2. If the employee refuses to sign the discipline form(s), the supervisor and preferably one other supervisor should sign (on the form that the employee refused to sign.)
 3. The employee is to be given a copy of the appropriate disciplinary form, and any attachments.
 4. The original of such form(s) are to be retained in their personnel file.
 5. For suspensions, dismissals, and less than satisfactory service ratings a grievance form is also to be given to the employee.
- H. What occurred at the disciplinary conference (who said what to whom, what documents were provided) should be objectively written down immediately upon concluding the conference.
- I. If the employee fails to show up for a disciplinary conference, he/she normally waives their right to it.

Any questions/concerns about the disciplinary process, should be directed to your personnel office.

Notice of Disciplinary Conference

Employee Name _____

Work Area _____

This is to inform you that a Disciplinary Conference will be conducted:

Date: _____

Time: _____

Place: _____

You are being charged with the following type of unacceptable employee conduct or performance, specifically:

As a result of these charges, the following discipline is contemplated against you:

You are entitled to have a representative present at this conference. You must make the arrangement for representation yourself.

If you have any questions or concerns pertaining to the disciplinary conference, please contact:

_____ at _____
(phone)

Supervisor/Manager Signature

Date

Written Reprimand

A written reprimand is the lowest level of discipline. It is always in written form. The general concept of a written reprimand is that it is a censure of the employee's conduct. Supervisor guidance:

- A. A notice of disciplinary conference must be given to the employee.
- B. Normally, three copies should be prepared: one copy for the employee, one for the supervisor, and a copy for the employee's official personnel file.
- C. Employees are entitled to have a representative.
- D. The employee should be asked to sign the reprimand.
- E. The written reprimand needs to be written in clear and concise terms. The suggested format a written reprimand is as follows:
 - 1. A general statement of the problem.
What the misconduct is at issue or, what rule, regulation, policy or procedure, was violated.
 - 2. A specific statement of facts. What the employee did or failed to do. It should contain all the pertinent facts: what; where; when; how; any dates; times; and, places. A brief narrative should list the events that occurred as substantiated by management's investigation.
 - 3. Expectation. What corrective action is expected of the employee in the future to prevent re-occurrences of the offense.
 - 4. Warning. What will happen if the violation and/or act is repeated? A suggested phrase to conclude the written reprimand is: "Failure to comply with the expectations of this written reprimand may result in further disciplinary action."

WRITTEN REPRIMAND

EMPLOYEE NAME: _____
 CLASSIFICATION/LEVEL: _____
 WORK UNIT: _____

You are hereby officially reprimanded for the reasons detailed below. Please be advised this is considered discipline and shall be treated as such.

[illegible][illegible]

Issuing Supervisor	Date
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Employee Signature _____ Date _____

cc: Supervisor
Personnel File

Suspension Pending Investigation

There are occasions when a serious event occurs that dictates that an employee should be “suspended pending investigation.” This is normally only used when an employee is a potential threat in the work place or, is suspected of serious abuse/neglect of mental health recipients or, is an immediate serious disruptive presence in the work place or may be involved in criminal activity.

If it becomes necessary to suspend an employee pending investigation, the employee must be so advised, in writing. An Employee Departure Report form normally is given to the employee identifying suspension pending investigation and includes the reason for the investigation. The issuance of this form and the determination of whether such suspension is with or without pay will be handled by your personnel officer.

Suspension pending investigation may only be for a maximum of seven (7) calendar days unless an extension is authorized. Approval for extension must be requested and granted prior to the expiration of the seven days. This is also normally handled by your personnel officer.

Right to Representation

Employees have a right to have someone act as a representative for them in the following situations. The employee must request a representative and should normally make their own arrangements for a representative. Most often the representative is a union representative. The representative cannot answer questions for the employee nor instruct the employee not to respond.

- A. During an investigatory interview when a specific charge or specific allegation against the employee has been made.
- B. When discipline is anticipated or actually given. That is, specifically for:
 - 1. disciplinary conference
 - 2. written reprimand
 - 3. disciplinary suspension
 - 4. less than satisfactory service rating
 - 5. involuntary reassignment/transfer (for a disciplinary reason)
 - 6. unauthorized absence separation (vacating position)
 - 7. separation by leave of absence denial
 - 8. dismissal or otherwise involuntary separation
 - 9. involuntary demotion

Special note: For MCO represented employees we are not required to postpone a disciplinary conference for an employee on extended sick leave or leave of absence. The Employer must notify the employee of the conference, via regular and certified mail, and advise the employee of his/her right to submit a written statement in response to the statement of charges. The notice must also advise the employee that he/she has the right to have a representative present at the conference to represent his/her interests. UAW represented employees are to be advised in writing of their right to a UAW representative for investigatory conferences as well as disciplinary conferences.

- C. A representative's role is normally to advocate for the charged/accused employee and to ensure protection of the charged/accused employees' due process right. The representative cannot respond to questions for the employee, or instruct the employee not to respond. This cannot be used as a grievance conference.

LESS THAN SATISFACTORY WORK PERFORMANCE

Generally less than satisfactory work performance is as a result of inability to perform or an unwillingness to perform. We normally address performance problems through corrective action. This includes talking to the employee, verbal/informal counselings, written/formal counseling, and service ratings. You should work very closely with an employee who is exhibiting performance problems in an effort to elicit improved performance. Employees that do not demonstrate evidence of improvement or resist making improvement are to receive progressive corrective action and/or discipline.

Corrective Progressive Steps

After documenting that a performance problem exists, corrective steps are to be taken as follows:

- A. Normally, a supervisor should talk with the employee about the problem.
- B. If the employee fails to improve, the employee should receive a verbal/informal counseling about the poor performance. The employee is to be told this is a verbal/informal counseling. The supervisor is to record this benefit on the form "Supervisor's Record of Verbal/Informal Counseling." Then follow the procedures outlined in "Preparing for Counseling."
- C. If the employee fails to improve, then the employee should be given a written/formal counseling. Use the "Written/Formal Counseling Form."
- D. If the employee still fails to improve, he/she may be given a less than satisfactory service rating. Be advised that normally two or more written counselings should precede a less than satisfactory rating. Employees are entitled to representation during the meeting in which a less than satisfactory rating will be given.

Special note: regarding the issuance of a less than satisfactory rating

- A. A follow-up rating may be given prior to the expiration of a rating period.
- B. Any disciplinary action unrelated to work performance should also be noted on the service rating.

It is not good practice to obtain extensions of service ratings; however, in those rare instances when this occurs, notice of an extension of the service rating period must be given to the employee in writing.

Special note: Whenever an employee receives a follow-up satisfactory rating, it should state that the employee is expected to maintain a satisfactory level of performance on an ongoing basis, and that failure to do so may result in discipline up to, and including dismissal.

Preparing for Counseling

Preparation is essential. You need to know what you are going to say and be able to support the counseling with accurate facts and information.

- A. Collect and review your data. There are numerous sources from which you can gather information.
 - 1. File of employee
 - 2. Civil Service class specifications
 - 3. Position description
 - 4. Procedure documents
 - 5. Work schedule
 - 6. Attendance records and call-in records
 - 7. Training records/manuals
- B. Evaluate your information. Attempt to identify problems and try to assist employees who are willing to accept assistance. Some possible causes may be:
 - 1. Dissatisfied with working conditions--noise, smells, outdoors, indoors, etc.
 - 2. Interpersonal problems with other staff or supervisor
 - 3. Personal or family problems
 - 4. Health problems
 - 5. Alcohol or drug problems
 - 6. Poor selection and placement in terms of employee's experience, skills and education
 - 7. Supplemental employment--effect on job and performance
- C. Prepare the counseling form. All verbal /informal and written /formal counselings should contain the following:
 - 1. A discussion of the problem
 - 2. An explanation of what is necessary to become satisfactory
 - 3. A firm date for a review of the problem
 - 4. A reasonable time period for correction
 - 5. A clear warning that if improvement is not forthcoming, written/formal counseling, discipline, etc., as appropriate will follow
- D. Conducting the counseling session It should be in a private setting, away from others and distractions and proceed as follows: (the employee is not entitled to representation.)
 - 1. Review briefly the reasons for the session
 - 2. Ask employee for his/her explanation and reasons
 - 3. Indicate what the solutions are
 - 4. Handle the conference in a positive manner. As appropriate mention employee's good points; try to avoid derogatory/inflammatory comments, avoid arguing with the employee
 - 5. Review the written counseling document with the employee and ask if there are any questions

Please remember that counseling is a non-disciplinary action wherein an employee's deficiency is brought to his/her attention. It is a process normally used to correct performance problems. A necessary, arrange for a date in the future for a brief follow-up meeting to resolve any problems or questions that occur after the initial conference or for the purpose of providing feedback.

Note: UAW represented employees must be advised at the commencement of the meeting it is a formal counseling session. This is good advice when conducting such a meeting for any employee.

Supervisor's Record of Verbal/Informal Counseling

Employee Name: _____ Class: _____

Work Unit: _____

Supervisor's instructions:

The purpose of this document is to record that the matter described below has been discussed with the employee. This document is to be maintained in the supervisor's record only and is to be used for reference purposes only. **Do not** give a copy to the employee or anyone else.

Subject of Discussion:

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

Date discussed With Employee: _____

Supervisor's Name: _____

Written/Formal Counseling

Employee Name _____ Class _____

Work Unit _____ Shift _____

The purpose of this document is to bring to your attention certain job/attendance deficiencies that need to be corrected. This is not considered to be discipline, but rather is corrective in nature.

REASON:

EXPECTATION:

Supervisor signature Date

Employee signature Date

cc: Personnel file

SECTION II

UNAUTHORIZED LOST TIME AND ATTENDANCE IN GENERAL

Employees are expected to be at work during all scheduled work hours. This includes prompt arrival at the work station, not over-staying lunch or other breaks, and not departing early from work. Lost time, in and of itself, is not discipline. Lost time due to lack of authorization or approval for an absence of whatever duration, may result in an employee being placed under the provisions of the Lost Time Policy. Generally if an acceptable, verifiable statement from a medical practitioner is provided unauthorized lost time is not assessed even if the employee has no leave credits. However, employees who are repeatedly tardy or absent may be subject to counseling or progressive discipline for failing to maintain acceptable attendance.

FACTORS TO CONSIDER IN ADDRESSING POOR ATTENDANCE

The following guidelines are established for supervisors to advise employees of circumstances that may necessitate a request to the employee to provide acceptable medical documentation for an absence (this list is not considered exhaustive nor is each guideline applicable to all employees):

- A. When an employee has been recently counseled (verbal/informal or written/formal) or disciplined for excessive absence.
- B. When an employee has been hospitalized for any reason.
- C. When an employee has used sick leave accruals for three (3) or more consecutive work days.
- D. When an employee has been absent as a result of an accident or injury.
- E. When an employee has requested annual leave and been denied and subsequently requests use of sick leave for the corresponding time.
- F. When an employee claims illness on the day of a change of assignment.
- G. When an employee's sick leave credits have been reduced to eight (8) hours or less for reasons other than leaves of absence, workers' compensation, death in the family or verified job related injuries.
- H. When the absence of a considerable number of employees on a shift indicates a concerted effort among the employees at the agency.
- I. The Department's "lost time" or "attendance" work rules as detailed in our Corrective Action & Disciplinary Guidelines are to be used to address poor attendance.

SECTION III

INITIAL PROBATIONARY EMPLOYEE

The initial probationary period is a working test period and is considered as the final phase of the selection process. A probationary employee may be dismissed at any time during the probationary period. The corrective, progressive steps used with status employees normally do not apply to the initial probationary employees. Employees in their original probationary period are scrutinized more closely than other employees. Infractions, violations of rules, or inadequate performance is responded to with firm discipline including dismissal. Employees in their original probationary period are **not** to be given the benefit of the doubt or a 'break.' An extension of a service rating period is discouraged and should only be for good and substantial reasons. Past experience indicates that most employees who were given extensions and subsequently given "satisfactory" ratings, later revert back to marginal or substandard performance. In the event that disciplinary action is warranted, and the offense is of a major or serious nature, the employee is to be dismissed.

If the employee is "marginal" in two or more areas, consideration should be given to dismissal.

Supervisors need to, within the FIRST bi-weekly work period of employment, provide the following to the employee:

- A. copy of the job description
- B. review work schedules
- C. review critical policies and procedures
- D. review critical work procedures and manuals
- E. the first service/performance rating with evaluation factors (factors should be explained in detail)
- F. emphasize that good attendance is essential

Even though the probationary period affords only limited rights to the employee, it is important that the following elements be present and are documented:

- A. That the employee was offered appropriate instruction and orientation
- B. That the service/performance rating evaluation factors are meaningful, clear and are measurable; that the employee received a copy during the first bi-weekly work period of employment; and that the factors were reviewed with the employee
- C. That policies and procedures issued were explained to and/or receipted for by the employee.
- D. That the evaluation of probationary employees is handled in a consistent and non-discriminatory manner

All errors, violations or incidents of improper work performance and conduct were documented and brought to the employee's attention

SECTION IV

RECIPIENT RIGHTS/MENTAL HEALTH CODE VIOLATIONS

POLICY/PURPOSE

All violations included in this section are misconduct actions which include but are not limited to: abuse or neglect of recipients of mental health services, violation of rights guaranteed to recipients by the Michigan Mental Health Code, or other statutes. Since this directly relates to the care and well being of recipients, the discipline may be more severe than other areas of the Corrective Action & Disciplinary Guidelines.

CONCEPTS

The role of the supervisor/manager in this area is different than their role in other types of employee misconduct in several ways:

- A. The policy “Definitions and Reporting of Abuse and Neglect” defines the reporting and investigating requirements.
- B. In addition to agency staff, the Office of Recipient Rights investigates all allegations of rights violations. In some circumstances external entities, such as police agencies, the Family Independence Agency, and protection and advocacy groups may also conduct independent investigations.

NO SUPERVISOR SHALL COUNSEL OR DISCIPLINE AN EMPLOYEE FOR ANY RIGHTS VIOLATION UNLESS SUCH ACTION IS AT THE SPECIFIC DIRECTION OF THEIR APPOINTING AUTHORITY.

SPECIAL ISSUES

Although the supervisor does not solely determine the level of discipline in this area, supervisor participation is important. Supervisor guidance:

- A. **THE FIRST PRIORITY ALWAYS IS THE SAFETY OF THE RECIPIENTS.**
 - 1. Ensure the recipient is examined immediately after an unusual incident to determine if medical assistance is necessary and provided as necessary.
- B. Compliance with the reporting requirements, as required by law, DCH policy and/or agency policy is normally the next priority.
 - 1. Contact a higher level supervisor and/or facility administrator or designees to provide a brief description of the unusual incident.
 - 2. Advise all staff present in the area of the unusual incident that they need to complete an Unusual Incident Report and complete other required relevant documentation.

- C. The ability to sustain abuse or neglect charges may be directly related to the ability to provide and document injuries. Areas of evidence and testimony which are important include:
1. Physical evidence: Steps should be taken to preserve any physical evidence which might be important. This can be done through use of photographs. Identify such photographs with the date, time and place of the photo, and the name of the photographer.
 2. Documents: Records ordinarily kept in recipient living areas may be important. These include notes in the recipient record or unit logs, sign-in sheets, and staff assignment sheets. Any relevant record which could be easily altered or removed, but must remain available for continuing use, should be photocopied with immediacy and identified on the back as to the date, time, and name of person who did the photocopying.
 3. Employee witness statements: Supervisors may be requested to assist in obtaining witness statements. There are limitations in some collective bargaining agreements regarding the ability to obtain written statements, specifically, AFSCME contract Article 8, Section D., "Union Representation, Right to Representation;" and, MCO Article 10, Section B., "Disciplinary Action, Investigation." Any supervisor involved in obtaining witness statements should ensure that contract provisions regarding investigative questionnaires, investigatory interviews, and requests for union representation are being adhered to.
 4. Recipient witness statements: When recipient witness statements are obtained, some special assistance may be needed. The least possible assistance should be provided. If possible, the recipient witness should be separated from other recipients and/or employee witnesses until the statement has been taken to avoid possible coercion or suggestions creating undue influence. If the recipient is able to make an oral, but not a written statement, the notes should be signed by at least one supervisory witness. A statement from a psychiatrist or psychologist establishing credibility of the recipient witness may also be needed.
 5. Circumstantial evidence: Careful gathering of documents, physical evidence, and identifying the location and actions of other recipients and staff in the area where the unusual incident occurred is important.
 6. Medical evaluation: When contacted, the physician and/or nurse normally need to perform an immediate examination and provide any necessary treatment, and document the findings.
- D. The description of injuries should include:
1. Freshness, shape, size, location, and color of any bruises
 2. Responses from (or statements by) the recipient
 3. Type of injury (bruise, fractures, laceration, etc.)
 4. Medical impressions (if pertinent)